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15 UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF WASHINGTON
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18 Darold R.J. Stenson,
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20 Plaintiff,
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22 v.
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24 Eldon Vail, Secretary of Washington
25 Department of Corrections (in his
26 official capacity); Stephen Sinclair,
27 Superintendent of the Washington
28 State Penitentiary (in his official
29 capacity); Cheryl Strange, Office of
30 Correctional Operations Deputy
31 Secretary (in her official capacity);
32 Washington Department of
33 Corrections; and DOES 1-50,
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35 Defendants.
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37
38

No.

**COMPLAINT FOR EQUITABLE
AND INJUNCTIVE RELIEF [42
U.S.C. § 1983]**

39 Darold R. J. Stenson, by and through his undersigned attorneys for his
40 complaint against the above-captioned Defendants, alleges as follows:
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43 **NATURE OF THE ACTION**
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COMPLAINT FOR EQUITABLE AND
INJUNCTIVE RELIEF [42 U.S.C. §
1983] – 1

68695-0001/LEGAL14959421.1

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1 1. This action is brought under 42 U.S.C. § 1983 for violations and
 2 threatened violations of Plaintiff's rights to be free from cruel and unusual
 3 punishment under the Eighth and Fourteenth Amendments to the United
 4 States Constitution, and for violations and threatened violations of Plaintiffs'
 5 rights to be free from arbitrary and capricious Washington Department of
 6 Corrections ("DOC") protocols and procedures under the Fifth and Fourteenth
 7 Amendments to the United States Constitution.
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9 2. This Complaint does not challenge Plaintiff's underlying capital
 10 conviction or sentence of death, nor does it allege that lethal injection as a
 11 form of execution is *per se* unconstitutional. Methods of lethal injection that
 12 would comply with the United States Constitution exist and are available for
 13 Defendants' use. Rather, Plaintiff challenges only the manner and means by
 14 which the DOC intends to execute condemned inmates by lethal injection
 15 under its protocol dated October 25, 2008 ("Policy"), attached hereto as
 16 Exhibit A, or any future version of the DOC lethal injection protocol.
 17

18 3. Plaintiff contends that lethal injection, as that method of
 19 execution is currently administered in Washington, carries a substantial risk of
 20 the inflicting torturous pain and suffering upon condemned inmates. Plaintiff
 21 further contends that the nature of the chemicals used by Defendants to
 22 effectuate execution by lethal injection, coupled with Defendants' failure to
 23 implement sound alternative procedures and to guarantee the use of properly-
 24 trained and qualified personnel, creates a and substantial risk that Plaintiff will
 25 experience excruciating pain and suffering during execution.
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1 4. Plaintiff seeks equitable and injunctive relief to prevent
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3 Defendants from carrying out their executions by means of lethal injection, as
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5 that method of execution is currently performed in the State of Washington
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7 under the Policy, or any similar protocol. Plaintiff asks that the DOC be
8
9 restrained from carrying out his execution until such time as it has eliminated
10
11 the substantial risk of serious pain and suffering in violation of the United
12
13 States Constitution.

14 **JURISDICTION AND VENUE**

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16 5. This Court has jurisdiction over this Complaint pursuant to 28
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18 U.S.C. § 1331 (federal question), § 1343 (civil rights violations), § 2201
19
20 (declaratory relief), and § 2202 (further relief). This action arises under the
21
22 Fifth, Eighth, and Fourteenth Amendments to the United States Constitution
23
24 and under 42 U.S.C. § 1983.

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26 6. Venue is proper pursuant to 28 U.S.C. § 1391(b) because
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28 Plaintiff is currently incarcerated in Washington State Penitentiary, which is
29
30 located within this District. All executions performed by Defendants are
31
32 carried out in Washington State Penitentiary. The events giving rise to this
33
34 Complaint have occurred and/or will occur in this District.

35 **PARTIES**

36
37 7. Plaintiff Darold R.J. Stenson is a United States citizen and a
38
39 resident of the State of Washington. He is currently a death-sentenced inmate
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41 in the custody of Defendants and under the supervision of the DOC (DOC
42
43 number 232018). He is held at the Washington State Penitentiary, 1313 N.
44
45 13th Ave, Walla Walla, Washington 99362.
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1 8. Defendant Eldon Vail is the Secretary of the DOC, with the
2 responsibilities outlined in RCW § 72.09.050, and is sued in his official
3 capacity.
4

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6 9. Defendant Stephen Sinclair is the Superintendent of the
7 Washington State Penitentiary where Plaintiff is housed and where all
8 executions in Washington are performed, and is sued in his official capacity.
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10 10. Defendant Cheryl Strange is the Deputy Secretary for the Office
11 of Correctional Operations, and is sued in her official capacity.
12

13 11. Defendant Washington Department of Corrections is a
14 department of the State of Washington created by RCW § 72.09.030, and is
15 responsible for administering the adult corrections programs operated by the
16 State of Washington pursuant to RCW § 72.09 *et seq.*
17

18 12. Defendants Does 1-50, are the DOC's officers, successors in
19 office, agents, contractors, and employees, along with those acting in concert
20 with them, who have or will participate in Plaintiff's execution by virtue of
21 their roles in designing, implementing, preparing for, and/or carrying out the
22 lethal injection process. Plaintiff does not yet know the identities of these
23 persons, but will amend his complaint accordingly upon obtaining that
24 information.
25

26 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

27 13. Without conceding that the provisions for exhaustion of
28 administrative remedies are applicable to his claims, Plaintiff has effectively
29 exhausted all administrative remedies for the issues contained in this
30 Complaint to the extent that they were available and has satisfied the Prison
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1 Litigation Reform Act's exhaustion requirements pursuant to 42 U.S.C. §
2 1997e(a).
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4 14. Plaintiff is not required to exhaust administrative remedies before
5 bringing this Complaint because modification of the DOC's lethal injection
6 protocol is not possible through the internal grievance process and therefore
7 exhaustion is futile
8

9 15. Notwithstanding the fact that exhaustion of administrative
10 remedies through a prison grievance policy is not required for this type of
11 action, Plaintiff has, in an abundance of caution, grieved his claim. The DOC
12 has denied all relief requested by Plaintiff and Plaintiff avers and asserts that
13 all conditions precedent for bringing this suit have been met.
14

15 BACKGROUND

16 16. Plaintiff was convicted and sentenced to death in 1994.
17

18 17. His execution is set for December 3, 2008.
19

20 18. On April 16, 2008, the United States Supreme Court issued its
21 decision in *Baze v. Rees*, __ U.S. __, 128 S.Ct. 1520, 170 L.Ed. 2d 420
22 (2008), in which a plurality of the Court held that the Eighth Amendment to
23 the United States Constitution is violated when the State subjects an
24 individual to conditions presenting the risk of future harm that are likely to
25 cause serious illness and needless suffering and give rise to sufficiently
26 imminent dangers.
27

28 19. The State of Washington's methods of execution create a
29 substantial risk of serious harm and expose death-sentenced prisoners to
30

1 objectively intolerable risks of harm for purposes of the Eighth Amendment to
2 the United States Constitution.
3

4 20. Alternatives to the State's methods of execution exist that
5 effectively address the substantial risk of serious harm posed by the State's
6 current methods and that are feasible, readily implemented, and in fact
7 significantly reduce a substantial risk of severe pain. The State lacks a
8 legitimate penological justification for adhering to its current methods of
9 execution. By refusing to adopt the available constitutionally sufficient
10 procedures, the State is violating the prohibitions on cruel and unusual
11 punishment set forth in the Eighth Amendment to the United States
12 Constitution.
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22 GENERAL ALLEGATIONS

23 21. All prior allegations set forth above are re-alleged as if set forth
24 entirely herein.
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28 22. The State of Washington has elected to use lethal injection as the
29 presumptive method of execution. *See* RCW § 10.95.180(1). Under state
30 law, death sentences "shall be supervised by the superintendent of the
31 penitentiary and shall be inflicted by intravenous injection of a substance or
32 substances in a lethal quantity sufficient to cause death and until the defendant
33 is dead." *Id.* A defendant may elect death by hanging. *Id.*
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41 23. The statute prescribes no specific drugs, dosages, drug
42 combinations, or the manner of intravenous line access to be used in the lethal
43 injection execution process.
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1 24. The statute fails to prescribe any certification, training, or
2 licensure required for those individuals who participate in the execution
3 process.
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6 25. Though the statute does not delegate to DOC or any agency the
7 authority to implement execution policies and fails to set forth any
8 administrative or procedural standards safeguards or guidelines to be followed
9 when enacting policy or otherwise acting to implement the statute, all of the
10 details and methods involved in the execution process have been determined
11 by DOC and at DOC's sole discretion.
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14 26. The Policy sets forth the protocol by which the DOC has
15 determined that lethal injections are to be carried out in the State of
16 Washington.
17

18 27. On information and belief, DOC intends to execute Plaintiff by
19 the lethal injection procedure as set forth in the Policy. The Policy, and the
20 manner and means by which lethal injections are currently performed, violate
21 federal constitutional provisions that prohibit cruel and unusual punishment.
22

23 28. On information and belief, the lethal injection protocol set forth
24 in the Policy was adopted without sufficient medical research or review to
25 determine that an inmate would not suffer a painful death.
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27 29. The execution protocol set forth in the Policy was adopted
28 without complying with any administrative or procedural standards,
29 safeguards or guidelines.
30

31 30. The Policy creates a substantial risk that Plaintiff will
32 consciously experience pain and suffering during execution. Pursuant to the
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1 Policy, an “injection team” whose members, titles and qualifications are
 2 largely undefined by the Policy, will administer intravenously a three-drug
 3 combination to Plaintiff in the following order: (1) thiopental sodium;
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 5 (2) pancuronium bromide; and (3) potassium chloride.
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 9 **i. Thiopental Sodium**

10 31. Thiopental sodium, the first drug to be administered, is an ultra-
 11 short acting anesthetic intended to cause temporary unconsciousness, the
 12 effects of which wear off quickly. If a sufficient dose of thiopental sodium is
 13 not administered properly, the sedative effect will wear off during the
 14 execution process, creating a substantial constitutionally unacceptable risk of
 15 suffocation from the administration of the subsequently-administered
 16 pancuronium bromide and pain from injection of the subsequently-
 17 administered potassium chloride.
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20 32. Failure to administer properly the entire dose of thiopental
 21 sodium necessary to prevent unconstitutional suffering is a foreseeable
 22 consequence of the inadequacy of DOC’s procedures and training as outlined
 23 in the Policy. Proper administration of thiopental sodium sufficient to render
 24 an adequate depth of unconsciousness is crucial to render the execution
 25 humane because the subsequently-administered drugs cause excruciating pain
 26 and suffering if injected into a conscious or inadequately sedated person. If
 27 not fully anaesthetized when injected with the pancuronium bromide and the
 28 potassium chloride, Plaintiff will experience both conscious paralysis and
 29 asphyxiation and an excruciating burning feeling throughout his veins before
 30 dying from cardiac arrest.
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1 33. The Policy provides that a solution of thiopental sodium will be
2 used in the lethal injection procedure and states that solutions for injection
3 will be prepared no more than thirty minutes prior to administering them in
4 the execution. The Policy does not outline how the drug will be prepared, or
5 by whom, nor does it reasonably assure that the personnel who will prepare
6 and deliver the thiopental sodium have adequate training and experience to
7 perform these tasks properly and to do so within the time constraint. On
8 information and belief, other states use licensed pharmacists or physicians to
9 mix the drugs, including thiopental sodium, for lethal injections.
10

11 34. DOC has chosen to create a substantial and foreseeable risk that
12 Plaintiff will be conscious during the administration of the pancuronium
13 bromide and potassium chloride by electing to use thiopental sodium.
14 Anesthesiologists typically administer thiopental for purposes of temporarily
15 anaesthetizing patients in order to introduce a breathing tube. Once the
16 breathing tube has been inserted, other longer-lasting barbiturates are
17 administered to maintain the patient at a surgical plane of anesthesia
18 throughout the procedure.
19

20 35. The American Veterinary Medical Association (AVMA)
21 recommends the use of a long-acting barbiturate such as sodium pentobarbital
22 in euthanasia, rather than the thiopental sodium used in Washington
23 executions of death-sentenced prisoners. *See American Veterinary Medical*
24 *Association, AVMA Guidelines on Euthanasia (Formerly Report of the AVMA*
25 *on Euthanasia)* (June 2007) at 11, available at
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1 <http://www.avma.org/issues/animal_welfare/euthanasia.pdf>, last visited
2
3 August 18, 2008.
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5 **i. Pancuronium Bromide**
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7 36. After the thiopental sodium, Defendants intend to administer 100
8 milligrams of pancuronium bromide. Pancuronium bromide is a
9 neuromuscular blocking agent that paralyzes all voluntary muscles, including
10 the respiratory muscles, thereby causing asphyxiation. Pancuronium bromide
11 does not diminish cognition, consciousness, or the ability to feel pain or
12 suffocation. As a result, if an individual is not fully unconscious when
13 pancuronium bromide is administered, that person will experience the
14 physical and psychological agony of conscious suffocation, but because of the
15 paralysis, the person will be unable to communicate that suffering and the
16 pain will not be visible to an observer.
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18 37. Pancuronium bromide substantially increases the risk that
19 Plaintiff will be conscious during the injection of potassium chloride, an
20 extremely painful drug. Once paralyzed by pancuronium bromide, an
21 inadequately anesthetized person will appear to be serene and unconscious
22 throughout the execution procedure and will be unable to speak or move or
23 otherwise inform the execution personnel that he is conscious and
24 experiencing torturous pain. Indeed, administered by itself to a conscious
25 person, pancuronium bromide would cause the person to suffocate to death
26 slowly while remaining fully conscious.
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28 38. Pancuronium bromide serves no medical purpose or legitimate
29 function in an execution. The chemical is used to prevent the executioners
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1 and witnesses from knowing whether the condemned inmate is adequately
 2 anesthetized. In cases in which the thiopental sodium is not successfully
 3 delivered to the inmate's circulation and/or the condemned inmate is not
 4 adequately anesthetized, pancuronium bromide will create the appearance of a
 5 serene death while masking the fact that the person is experiencing conscious
 6 paralysis, suffocation, and the agony of cardiac arrest from the administration
 7 of potassium chloride. The use of pancuronium bromide is unnecessary to
 8 bring about death. Absent the use of pancuronium bromide, a person
 9 undergoing execution would be able to indicate that he was still conscious or
 10 had regained consciousness prior to the lethal dose of potassium chloride.
 11

20 39. On information and belief, pancuronium bromide is banned in
 21 most states for use in animal euthanasia because it inhibits the ability to
 22 determine if the patient is experiencing pain during the procedure.
 23 Washington's statutory and administrative provisions express a strong
 24 preference for pentobarbital-based drugs. *See* RCW §§ 16.52.011; 69.50.310;
 25 WAC §§ 246-886-020 & 246-886-030.
 26

27 40. Pancuronium bromide substantially and foreseeably increases the
 28 risk that Plaintiff will be conscious during the injection of the potassium
 29 chloride that follows. Once paralyzed, he will be unable to indicate to the
 30 execution personnel that he is conscious and experiencing torturous pain.
 31 When pancuronium bromide is administered after an initial dose of thiopental
 32 sodium, as the Policy calls for, it creates the real, gratuitous, and unacceptable
 33 risk that Plaintiff will be paralyzed by the pancuronium bromide but
 34 conscious and able to feel the severe pain caused by the potassium chloride.
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1 Administering the combination of thiopental sodium and pancuronium
 2 bromide thus creates the unconscionable possibility that Plaintiff will
 3 consciously experience the agony of suffocation by the pancuronium bromide
 4 and the intense burning as the potassium chloride moves through his veins,
 5 followed by cardiac arrest, without being able to indicate that he was still
 6 conscious or had regained consciousness.
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 13 **i. Potassium Chloride**

14 41. 1. The third and final chemical Defendants intent to administer
 15 is potassium chloride, an extremely painful chemical which causes death by
 16 disrupting the heart's contractions, leading to cardiac arrest and death. As
 17 potassium chloride travels through the bloodstream from the site of injection
 18 towards the heart, the chemical activates sensory nerve fibers inside the veins,
 19 causing a prolonged and intense burning sensation. In the foreseeable event
 20 that a person is not adequately anesthetized throughout the execution
 21 procedure, the potassium chloride will cause the person to consciously
 22 experience the agonizing pain of this excruciatingly painful chemical coursing
 23 through his veins and of cardiac arrest, while being incapable of expressing
 24 his suffering due to the paralytic effects of the pancuronium bromide.
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37 42. The AVMA condemns the use of potassium chloride as the sole
 38 agent for animal euthanasia. *See* AVMA Guidelines, *supra*, at 12. If
 39 potassium chloride is to be used at all, the AVMA requires the practitioner
 40 administering the potassium chloride to have proper training and knowledge
 41 to ensure that the euthanized animal has reached a surgical plane, which is
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1 characterized by the loss of consciousness, loss of reflex muscle and loss of
2 response to noxious stimuli. The Policy lacks even these basic protections.
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4 43. The Policy creates a substantial risk that Plaintiff will not be fully
5 anaesthetized when the potassium chloride is administered and therefore will
6 be conscious and experience torturous pain as a result.
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11 **a. Deficiencies in the DOC's Lethal Injection Protocol Create a Substantial**
12 **and Excessive Risk That Plaintiff Will Suffer Excruciating Pain During**
13 **Execution**
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15 44. On information and belief, the State of Washington does not use
16 a lethal injection procedure and/or employ safeguards substantially similar to
17 those used by the State of Kentucky. *See Baze v. Rees*, __ U.S. __, 128 S.Ct.
18 1520, 170 L.Ed. 2d 420 (2008).
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21 45. The Policy fails for many reasons including, but not limited to,
22 those stated below.
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25 46. The Policy fails to set forth a back-up plan in the event of failed
26 intravenous insertion or other errors in administration of the chemicals.
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29 47. On information and belief, the State does not select or assemble
30 the lethal injection team until 60 to 90 days prior to the execution date,
31 thereby creating the substantial risk that the members of the injection team
32 will not have adequate training to perform executions in a constitutionally
33 compliant manner.
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36 48. The Policy fails to set forth the procedures for establishing
37 properly the intravenous lines through which the lethal solutions will flow.
38 This failure creates a substantial, intolerable risk of serious harm that the
39 drugs will not be properly administered, specifically, that an adequate dose of
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1 thiopental sodium will not reach Plaintiff and render him unconscious on a
2 surgical plane of anesthesia, and that therefore Plaintiff will suffer suffocation
3 from the administration of the pancuronium bromide and the excruciating pain
4 akin to fire running through his veins from injection of the potassium
5 chloride.
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10 49. The Policy does not identify who will set the intravenous lines,
11 where and the manner in which the intravenous lines will be set, or sufficient
12 credentials, qualifications, training, or experience of such person or persons.
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15 50. The Policy does not provide a time frame during which the
16 intravenous lines must be established or a backup plan for vein access in the
17 event that the initial attempt to establish the intravenous lines is unsuccessful.
18 The protocol set forth in the Policy fails to identify whether the intravenous
19 access will be attempted first through peripheral sites, such as arms, hands, or
20 legs, before more invasive measures are attempted.
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28 51. The Policy does not prohibit the use of "cut downs" to access
29 veins for the intravenous lines. A cut down is a painful procedure that
30 involves surgically exposing a vein, inserting a catheter, and closing the skin
31 with suturing, and would be performed prior to the administration of the
32 thiopental sodium. This procedure has been held unconstitutional by other
33 courts.
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40 52. The Policy does not limit injection of the drugs into the arms or
41 legs as do other states protocols. Injection in other areas, such as the neck,
42 can cause excessive pain.
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1 53. The Policy does not provide for persons who possess sufficient
2 expertise to insert an intravenous line properly to be present in the chamber
3 with the inmate to watch for signs of intravenous line problems, such as
4 blockage and infiltration, and what necessary measures to take in the event of
5 such instances.
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10 54. The Policy does not provide for a standard time for the lethal
11 solutions to be administered or how much time should elapse between
12 administration of the solutions.
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16 55. The Policy fails to specify where the injection team and injection
17 team leader are to be located during the administration of the intravenous
18 lethal solutions or how the execution facilities are set up, thereby creating the
19 substantial risk that there will be not be adequate monitoring for purposes of
20 assessing unconsciousness and whether intravenous tubes are and remain
21 properly inserted into veins.
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28 56. The Policy fails to provide sufficient methods to ensure and
29 monitor that the proper level of unconsciousness is maintained following
30 administering of the sodium thiopental to ensure that an inmate will not
31 experience suffocation or the excruciating burning pain caused by the second
32 and third drugs, *i.e.*, whether the inmate is on the surgical plane of anesthesia
33 prior to administration of pancuronium bromide and potassium chloride. In
34 light of the known risk that a person not completely and deeply unconscious
35 will experience torturous pain and suffering as a result of the last two drugs to
36 be administered, the lack of safeguards creates a substantial intolerable risk of
37 serious harm and wantonly exposes death-sentenced prisoners to that risk.
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1 57. The Policy does not provide how the syringes containing the
2 lethal solutions will be labeled to ensure that the injection team administers
3 the drugs in the correct order and dosage.
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6 58. The Policy does not provide where or how the lethal solutions
7 will be stored upon arrival to the Washington State Penitentiary to guarantee
8 that the integrity of the chemicals is not compromised prior to the execution.
9

10 59. The Policy's inadequate procedures and lack of safeguards for
11 establishing and maintaining the IVs, administering the lethal solutions and
12 maintaining the unconsciousness of the condemned creates a substantial
13 intolerable risk of serious harm to Plaintiff.
14

15 60. The Policy delegates the assignment of all staff to be involved in
16 the execution, including the administration of the medical procedures, as well
17 as the determination whether expert advice should be sought as to whether to
18 deviate from the Policy's procedures for inmate-specific physical or medical
19 reasons, to the Superintendent of the Washington State Penitentiary
20 (Superintendent), a position that, on information and belief, does not require
21 any medical certification, training, experience, or knowledge.
22

23 61. The Policy lacks any guidelines for injection team members or
24 other personnel to rely upon if they are required to exercise their discretion
25 during the lethal injection process.
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27 62. The Policy provides that briefing and rehearsals are to be
28 conducted only "as necessary," but fails to provide what will be rehearsed,
29 and whether and what type of follow-up will take place in the event that the
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1 rehearsal reveals deficiencies, difficulties, or flaws with the personnel or
2 procedures.
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5 63. The failure of requirement for medical file review and a physical
6 examination is especially problematic in this case. Mr. Stenson is a type 2
7 diabetic with a history of significant difficulty in the injection of needles in
8 his veins even to draw blood. Executing Mr. Stenson under DOC's current
9 protocol is likely to cause him severe pain.
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13 64. A physical examination of the person, may, but need not, be
14 performed. The Policy does not state who is to review the medical file the
15 requirements for that person's credentials or qualifications. There is no
16 guidance as to who will conduct the physical examination, when a physical
17 examination will be performed or the scope of the examination. The Policy
18 provides that, based upon the physical examination, the Superintendent "may"
19 but need not consult with "appropriate experts" to determine whether, based
20 on the medical file, any deviation from the policy is advisable. There is no
21 guidance as to what the credentials and qualifications of these "appropriate
22 experts" must be, or whether they must have any experience administering
23 lethal injections.
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27 65. The Policy does not provide for any evaluation of the person's
28 psychiatric state.
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32 66. The Policy fails to provide for a physician to be on stand-by, and
33 does not make any provision for resuscitation in the event that a last-minute
34 reprieve is granted once the execution process has begun.
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COUNT I:**Violation of the Right to be Free from Cruel and Unusual Punishment
Pursuant to Eighth Amendment
to the United States Constitution**

67. All prior allegations set forth above are re-alleged as if set forth entirely herein.

68. Defendants, acting under color of Washington law, intend to execute Plaintiff in a manner and by methods that will cause unnecessary pain, that do not comport with evolving standards of decency, thereby depriving Plaintiff of his rights under the Eighth Amendment to the United States Constitution, as made applicable to the State of Washington by the Fourteenth Amendment to the United States Constitution, to be free from cruel and unusual punishment.

69. Although it is possible to conduct executions in a constitutionally compliant manner, Defendants have chosen not to do so. While Defendants could select additional or alternative chemicals and retain qualified medical personnel to administer its chosen chemicals to ensure the constitutionality of its lethal injection procedure, Defendants have acted with deliberate indifference and failed to do so. Defendants' current procedures violate evolving standards of decency.

COUNT II:**Violation of the Right to Due Process Pursuant to the
Fourteenth Amendment to the United States Constitution**

70. All prior allegations set forth above are re-alleged as if set forth entirely herein.

1 71. The Washington legislature did not delegate authority to DOC to
2 establish or implement a policy by which executions are to be carried out in
3 the State.
4

5 72. By acting without a legislative grant of authority in establishing
6 or implementing an execution policy, DOC exceeded its jurisdiction, and its
7 policy may not be enforced.
8

9 73. No Washington statute sets forth which agency, if any, has
10 delegated authority to establish or implement an execution policy.
11

12 74. No Washington statute sets forth the scope of authority under
13 which a State agency might establish or implement an execution policy.
14

15 75. No Washington statute describes administrative or procedural
16 standards, safeguards or guidelines by which an agency should establish or
17 implement an execution policy.
18

19 76. There is no provision made by the Legislature, or by DOC, for
20 review of the Policy under the Administrative Procedures Act or otherwise to
21 assure that DOC's policies and actions are constitutional, and not arbitrary
22 and capricious and are otherwise lawful.
23

24 77. By failing to adopt adequate statewide standards for lethal
25 injection, and failing to adopt practicable procedures to implement them, and
26 failing to provide for any review, Defendants have deprived Plaintiff of his
27 right to due process under law as provided by the Fourteenth Amendment.
28

29 78. By failing to adopt adequate statewide standards for lethal
30 injection, and failing to adopt practicable procedures to implement them, and
31 failing to provide for any review, Defendants fail to provide a process with
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1 sufficient guarantees of equal treatment as required by the Fourteenth
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3 Amendment.

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5 **PRAYER FOR RELIEF**

6
7 Mr. Stenson respectfully requests that this Court grant the following
8
9 relief:

10
11 A. Injunctive relief to enjoin Defendants, their officers, agents,
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13 servants, employees and all persons acting in concert with them from execution
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15 Plaintiff by lethal injection using the execution protocol set forth in the DOC
16
17 Policy or similar policy, protocol, practice, or procedure.

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19 B. That the Court conduct appropriate and necessary evidentiary
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21 hearing and discovery to permit Plaintiff to prove his constitutional claim;

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23 C. Reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 and the
24
25 laws of the United States;

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27 D. Costs of the suit; and

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29 E. Any further relief that the Court deems just and proper.
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2 DATED: November 20, 2008
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PERKINS COIE LLP

By: 

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COMPLAINT FOR EQUITABLE AND
INJUNCTIVE RELIEF [42 U.S.C. §
1983] – 21

68695-0001/LEGAL14959421.1

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Exhibit A

 STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS POLICY	APPLICABILITY PRISON		
	REVISION DATE 10/25/08	PAGE NUMBER 1 of 12	NUMBER DOC 490.200
	TITLE CAPITAL PUNISHMENT		

REVIEW/REVISION HISTORY:

Effective: 9/3/93
 Revised: 6/15/98
 Revised: 8/10/01
 Revised: 6/21/07
 Revised: 10/25/08

SUMMARY OF REVISION/REVIEW:

Title and Team Name changes throughout
 I.A.1., II.C. & VIII.A.1., & VIII.C.2. – Added clarifying language
 III.B.3. – Added requirements for ISDP incoming mail
 III.B.4.b. & 5.b. – Added clarifying language regarding attorney of record
 Revised IV.A.1. to specify a single media event
 Added IV.B.1. & DOC 21-575 Acknowledgment of Visitor Search Requirements for searches of media representatives
 Revised V.F. regarding search requirement for witnesses
 VI.C. – Revised housing requirements for female ISDP
 VIII.A.2. – Added requirement for 3 practice sessions for lethal injections
 VIII.B. – Removed medical file review; revised physical examination requirement
 IX.A.1.d. – Added that Lethal Injection Team members must be trained; added qualifications
 IX.A.2.a. – Changed Director of Health Services to Superintendent
 IX.A.4.b. & d. – Revised requirements for lethal injection
 IX.A.4.h. – Removed requirement that Lethal Injection Team remove apparatus and saline
 X.A. – Calls to Headquarters will be made to the Department Emergency Operations Center
 X.F. – Removed requirement that Death Certificate be signed before removal of body
 Several changes to Attachment 1


APPROVED:

Signature on File

ELDON VAIL, Secretary
 Department of Corrections

10/23/08

Date Signed

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REFERENCES:


DOC 100.100 is hereby incorporated into this policy; RCW 10.95.160-190; WAC 137-48-050;
DOC 410.040 Incident Command System (ICS)

POLICY:

- I. The Department has established procedures governing capital punishment to meet the requirements of RCW 10.95.160-190. These procedures set forth:
 - A. Security requirements for an Inmate Subject to the Death Penalty (ISDP),
 - B. Protocol for conducting an execution,
 - C. The care provided the ISDP while a valid Death Warrant is in force, and
 - D. The method of execution by lethal injection or hanging.
- II. The Department Secretary designates the Assistant Secretary for Prisons to coordinate:
 - A. The responsibilities of the Washington State Penitentiary (WSP) Superintendent, and
 - B. A review of the procedures and all operational decisions in carrying out the execution, as well as the legal status of the Death Warrant.

DIRECTIVE:


- I. ISDP Housing
 - A. Upon receipt of an ISDP and prior to receipt of a Death Warrant:
 1. Male ISDPs shall be housed in a single person cell located in a segregated area of WSP.
 2. Female ISDPs shall be housed in a segregated area of the Washington Corrections Center for Women (WCCW). Prior to the execution date, the female ISDP will be transported to WSP for housing and execution.
- II. Pre-Execution Procedure
 - A. Consistent with RCW 10.95.190, a log shall be maintained with the Death Warrant in the Superintendent's Office.
 - B. Responsibilities are listed in the Execution Procedures and Assignments Checklist (Attachment 1).

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- C. Only staff assigned by the Superintendent will attend the execution. No facility staff will be required to participate in any part of the execution procedure.

III. Notification to ISDP


- A. After receiving confirmation of a valid Death Warrant, the Superintendent will designate an Associate Superintendent to personally interview the ISDP regarding procedures relating to the execution.
- B. The Associate Superintendent will provide the ISDP with a written summary of procedures, to include mail, visits, telephone usage, and available religious services. The ISDP will be informed of the following:
1. The date of the execution.
 2. The punishment of death shall be by lethal injection.
 - a. The ISDP may elect hanging as an alternate means of execution.
 - b. The procedure to be used will be determined 14 days prior to the execution and the method cannot be changed after that date. If the ISDP elects hanging, it must be stated in writing no later than 14 days prior to the execution date.
 3. Mail procedures for an ISDP with an active Death Warrant will be as follows:
 - a. The Mail Room Sergeant will be instructed, in writing, to forward all incoming mail, unopened, to the designated Associate Superintendent, who will screen and exclude any items which may threaten the order and security of the facility with regard to the ISDP.
 - 1) Mail intended to harass the ISDP will be considered a threat to the orderly operation of the facility and restricted per WAC 137-48-050.
 - 2) Legal mail will be screened, not read.
 - b. The Mail Room Sergeant will maintain a log of all incoming and outgoing mail, noting the date and time of receipt and delivery. A separate log will be maintained for all legal mail.
 4. All visits between the ISDP and authorized visitors will be no contact.

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- a. Visitation for an ISDP will be consistent with the visiting procedures of other offenders housed in the Intensive Management Unit (IMU).
 - b. Seven days prior to the execution, daily visits will be authorized in addition to visits with the attorney of record.
 - c. Twenty-four hours prior to the execution date, all visits and visitors require the approval/denial of the Superintendent.
 - d. After the ISDP is moved to the execution holding cell, visits will be restricted to approved clergy and the attorney of record.
5. The ISDP will have unlimited phone access during the daily yard period. Fourteen days prior to the execution date, an additional daily one hour yard will be provided.
- a. There will be no limit on the number or duration of calls to and from the attorney of record.
 - b. Only calls from the attorney of record will be authorized following transfer to the execution holding cell.

IV. Media Relations

- A. The Superintendent/designee will coordinate all requests for information concerning an execution.
 1. A single event to provide representatives of major and local media an opportunity to access the chamber will be authorized by the Superintendent and coordinated by designated staff.
- B. The Superintendent will establish procedures for selecting media witnesses as specified in the Witness Selection section of this policy.
 1. No audio/electronic/video equipment, cameras, telephones, or recording/communication devices will be permitted in the chamber. Media witnesses will be subject to an electronic and pat search. Written consent for search will be required using DOC 21-575 Acknowledgment of Visitor Search Requirements.
 2. The only items that are allowed in the chamber are pens, pencils, and writing tablets supplied by the facility.
- C. Requests from media representatives for access to the Information Center must be submitted in writing.

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1. Information Center access will not be permitted more than 3 hours prior to an execution.
- D. Media access to a designated area of the facility parking lot will be permitted at a designated time the day prior to the execution.
- E. Media will not be permitted to film or conduct interviews with facility staff without the prior authorization of the Superintendent/designee.
- F. All normal facility security procedures will apply. Failure to comply with these procedures, Department policies, operational memorandums, or directions from authorized personnel may be cause for removal from the facility and/or facility grounds. The Superintendent may establish emergency rules and procedures.
- V. Witness Selection
- A. Not less than 20 days prior to an execution, individuals who wish to attend and witness the execution must submit a letter of request (e.g., application) to the Superintendent. The letter must designate the relationship to the ISDP and reason(s) for wishing to attend. Eligible individuals include:
1. Judicial officers (i.e., the Judge who signed the Death Warrant for the ISDP, the current Prosecuting Attorney or a Deputy Prosecuting Attorney of the county from which the final Judgment and Sentence and Death Warrant were issued, and the most recent attorney of record representing the ISDP),
 2. Law enforcement representatives (i.e., officers responsible for investigating the crime for which the inmate was sentenced to death),
 3. Media representatives,
 4. Representatives of the families of the victims (i.e., immediate family or victim advocates of the immediate family), and
 5. Representatives from the ISDP's immediate family.
- B. Not less than 15 days prior to the execution, the Superintendent shall determine the total number of individuals, other than Department employees, who will be allowed to attend and witness the execution.
1. The Superintendent shall determine the number of witnesses allowed in each category of eligible individuals.

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- a. No less than 5 media representatives will be included, with consideration given to news organizations serving communities affected by the crimes or the execution.
 - b. Up to 2 law enforcement representatives will be included. The chief law enforcement officer of the jurisdiction where the crime was committed shall designate the law enforcement representatives.
2. Once the list is composed, the Superintendent shall serve the list on all parties who have submitted a letter (e.g., application) to witness the execution.
- C. Not less than 10 days prior to the execution, the Superintendent shall file the witness list with the Superior Court from which the conviction and Death Warrant were issued. The witness list will be filed with a petition asking that the court enter an order certifying the list as a final order identifying the witnesses to attend the execution. The final order of the court certifying the witness list shall not be entered less than 5 days after the filing of the petition.
 - D. Unless a show cause petition is filed with the Superior Court from which the conviction and Death Warrant were issued within 5 days of the filing of the Superintendent's petition, the Superintendent's list, by order of the Superior Court, will become final and no other party will have standing to challenge its appropriateness.
 - E. In no case may the Superintendent or the Superior Court order or allow more than 17 witnesses to a planned execution, excluding required staff.
 - F. All witnesses must adhere to the facility's search and security provisions in regards to witnessing an execution and may be subject to emergency rules and procedures. Written consent for search will be required using DOC 21-575 Acknowledgment of Visitor Search Requirements.

VI. Execution Holding Cell

- A. Prior to the execution, but no sooner than 24 hours before, the ISDP will be moved to the execution holding cell.
- B. The holding cell will contain:
 1. Bedding that includes a mattress, 2 sheets, 3 blankets, a pillow, and a pillow case,
 2. Personal hygiene items that include 2 towels, a washcloth, and a bar of soap,

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3. Approved personal items and clothing that include underwear, facility clothing, legal materials, religious items, jewelry, or other personal items as requested by the ISDP and approved by the Superintendent, and
 4. Other personal items as requested by the ISDP and approved by the Superintendent to be retained by holding cell staff and issued as requested by the ISDP.
- C. A female ISDP may be housed in the WSP Intensive Management Unit (IMU) prior to being moved to the execution holding cell.
- D. Two correctional staff will be posted at the holding cell at all times and a complete log of activities will be maintained.

VII. Final Meal

- A. At the meal period just prior to the time of execution, the ISDP will be allowed to provide his/her meal selection from a menu prepared and provided by the Food Service Manager. The Food Service Manager will ensure preparation and delivery of the meal to the ISDP.

VIII. Execution Preparation

- A. The Superintendent will appoint individuals to support the execution process.
1. No staff will be required to participate in any part of the execution procedure.
 2. Briefings and rehearsals will be conducted as necessary to ensure adequate preparation for the execution. For an execution by lethal injection, there shall be a minimum of 3 practice sessions preceding an execution that shall include the siting of intravenous (IV) lines.
- B. Medical Review
1. A physical examination of the ISDP may be conducted to determine any special problems (e.g., collapsed veins, obesity, deterioration of bone or muscular structure) that may affect the execution process. The ISDP's height and weight will be measured during the examination.
 2. Based upon the physical examination, the Superintendent may consult with appropriate experts to determine whether deviation from the policy is advisable to ensure a swift and humane death.
- C. Crowd Control


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1. The Superintendent will notify law enforcement agencies of the date of execution, enabling them to prepare for any traffic and crowd control issues that may arise.
2. Prior to the execution, the Superintendent will hold briefings for local and state law enforcement agencies to determine the manner and extent to which WSP and Department resources will support law enforcement in managing crowd control and potential external threats.
3. An area(s) will be designated for the general public.
4. The WSP Emergency Response Team (ERT) will provide crowd control for the protection of the WSP grounds.
 - a. The ERT Commander(s) will be briefed by the Superintendent prior to the execution.
 - b. In the event that protesters and/or onlookers gather, law enforcement assistance will be requested to direct them to the designated area.


IX. Execution Procedure

A. Lethal Injection

1. Lethal Injection Materials/Personnel
 - a. All tubing, syringes, saline solution, and other apparatus will be on site and verified no later than 7 days prior to the execution.
 - b. The Superintendent will direct the acquisition of the appropriate quantities of lethal substances. These will be available and on site 7 days prior to the execution date.
 - c. The Superintendent will ensure the security and continued verification of all materials.
 - d. Lethal Injection Team members will have sufficient training or experience to carry out the lethal injection process without any unnecessary pain to the ISDP. Minimum qualifications include one or more years of professional experience as a certified Medical Assistant, Phlebotomist, Emergency Medical Technician, Paramedic, military corpsman, or similar occupation.
2. Lethal Injection Table

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- a. The Superintendent, in conjunction with the Plant Manager, will examine and verify that the lethal injection table is in working order with all restraints available.
3. Preparation of the Execution Area
 - a. The Lethal Injection Team will inspect the area designated for lethal injection and make any final recommendations to the Superintendent.
 - b. The Lethal Injection Team will assemble all necessary materials for transport to the chamber no less than one hour prior to the time of execution. The Lethal Injection Team Leader will secure the lethal substances and personally transport them to the chamber.
 - c. The solutions for injection will be prepared not more than 30 minutes prior to administration.
 4. Execution Process
 - a. The Superintendent will direct that the ISDP be brought to the chamber. The Escort Team will place the ISDP on the lethal injection table and appropriately secure the ISDP to the table. The Escort Team will then leave the room.
 - b. The Lethal Injection Team will establish 2 IV lines and start a normal flow of saline through each line. The Lethal Injection Team will ensure that a slow, normal saline flow is maintained through each line.
 - c. The Superintendent will ask the ISDP if s/he has any last words.
 - d. Upon notification from the Superintendent, the Lethal Injection Team will introduce the following lethal solutions using a bolus injection into the tubing in the order specified:
 - 1) 3 g thiopental sodium
 - 2) 50 cc normal saline
 - 3) 100 mg pancuronium bromide
 - 4) 50 cc normal saline
 - 5) 240 mEq potassium chloride (KCl)
 - e. Either line may be used for injection of solutions as required. The Superintendent shall observe the ISDP for signs of consciousness before the Lethal Injection Team administers the pancuronium

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bromide. If the Superintendent observes that the ISDP is conscious following the first dose of thiopental sodium, s/he shall direct the Lethal Injection Team to administer an additional 3 g dose of thiopental sodium.

- f. The Lethal Injection Team Leader will signal the Superintendent when all of the solutions have been administered.
- g. At a time deemed appropriate by the Superintendent, the curtains will be closed. The Superintendent will call for the physician to examine the body and make a pronouncement of death.
- h. After the pronouncement of death, the Lethal Injection Team will remain in the area until directed to leave.
- i. Post-execution procedures will be followed.

B. Hanging

- 1. The gallows area trap door(s) and release mechanisms will be inspected for proper operation.
- 2. A determination of the proper amount of drop of the ISDP through the trap door will be made. The following standard military execution drop chart will be used:

<u>WEIGHT (Pounds)</u>	<u>DROP DISTANCE</u>
120	8'1"
125	7'10"
130	7'7"
135	7'4"
140	7'1"
145	6'9"
150	6'7"
155	6'6"
160	6'4"
165	6'2"
170	6'0"
175	5'11"
180	5'9"
185	5'7"
190	5'6"
195	5'5"

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200	5'4"
205	5'2"
210	5'1"
220 and over	5'0"

3. Equipment

- a. Hood – The hood will be a neutral color with an outer surface made of rough material, split at the open end so that it will come down over the chest and back.
- b. Collapse Board – A board will be provided for use in case the ISDP collapses.
- c. Restraints – Restraints will be used to ensure that the hands and arms of the ISDP are securely held to his/her front and sides.
- d. Rope – The rope will be manila hemp, at least ¾ inch and not more than 1¼ inches in diameter and approximately 30 feet in length. The rope will be soaked and then stretched while drying to eliminate any spring, stiffness, or tendency to coil. The knot will be treated with wax, soap, or clear oils ensuring a smooth sliding action through the knot. The knot will be tied according to Army regulations.

4. Execution Process

- a. Restraints will be placed on the ISDP by assigned staff.
- b. The Escort Team will escort the ISDP to the gallows area. The ISDP will be placed, standing, in the spot designated by the Superintendent. The Superintendent will ask the ISDP if s/he has any last words.
- c. The hood will be placed on the ISDP and leg restraints applied. If a collapse board appears to be necessary, the Escort Team will put the board in place.
- d. The noose will be placed snugly around the ISDP's neck in such a manner that the knot is directly behind the left ear.
- e. The Superintendent will direct the trapdoor be released.
- f. The Escort Team will move to the lower floor location to assist with removal of the deceased ISDP. The curtains will be closed.

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- g. At a time deemed appropriate by the Superintendent, the physician will be called to make a pronouncement of death.

X. Post-Execution Procedure

- A. The Assistant Secretary for Prisons will notify the Secretary and Incident Command Center of the time of death. Necessary calls to Headquarters will be made to the Department Emergency Operations Center.
- B. The Superintendent will inform a designated staff of the time of death, who will then inform the witnesses.
- C. The witnesses will be escorted out of the execution area immediately after the pronouncement of death.
- D. The media witnesses will be escorted to the Information Center.
- E. The Chaplain will provide official notification to the family of the time of death.
- F. The body will be removed from the facility by a pre-determined route.
- G. A post-trauma specialist and the Chaplain will be available to staff preceding, during, and after the execution. Staff will also be provided a confidential list of off-site locations where counseling and/or spiritual support will be available.
- H. Within 20 days after the execution, the Superintendent shall return the Death Warrant to the clerk of the trial court from which it was issued, along with the log identified in the Pre-Execution Procedure section of this policy.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

Execution Procedures and Assignments Checklist (Attachment 1)

DOC FORMS:

DOC 21-575 Acknowledgment of Visitor Search Requirements

**DEPARTMENT OF CORRECTIONS
WASHINGTON STATE PENITENTIARY
EXECUTION PROCEDURES AND ASSIGNMENTS CHECKLIST**

Inmate:

Date of Execution:

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
Compliance Date: Approximately 30 days prior to the scheduled execution		
	Superintendent appoints an Execution Incident Commander.	
	Execution Incident Commander determines the Incident Command System (ICS) objectives, strategies, tactical direction, and organizational structure needed for the execution event and identifies planning elements required.	
	Execution Incident Commander develops a draft Incident Action Plan (IAP) for the execution and submits to the Superintendent for approval. The IAP will contain, at a minimum, all elements identified in this checklist.	
	ISDP is informed of the statutory requirements regarding the method of execution and is advised the Superintendent will request s/he submit his/her election of alternate method in writing.	
	ISDP is given opportunity to designate family members as witnesses.	
	ISDP has been provided a written summary of the procedures governing mail, visitation, telephone use, and available religious services.	
	<p>Mail Room Supervisor is informed, in writing, of the ISDP's name and execution and instructed that:</p> <p><input type="checkbox"/> All incoming mail addressed to ISDP will be forwarded unopened to a designated Associate Superintendent</p> <p><input type="checkbox"/> A log will be maintained of all incoming/outgoing mail noting date and time of receipt and distribution</p> <p><input type="checkbox"/> A separate log will be maintained for legal mail</p>	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	The facility Public Information Officer has been informed of scheduled date and directed to prepare a media plan.	
	The Intensive Management Unit (IMU) Manager has been informed of mail, visit, telephone use, and available religious services as they apply to the ISDP.	
	ISDP is placed on 30 minute check. Observed behavior is entered in designated log.	
	Chaplain is assigned as Religious Specialist and briefed.	
	Sources and procedures for acquiring the substances necessary for lethal injection have been investigated. Plans being made for acquiring all necessary equipment essential to carry out either mode of execution.	
	Coordination meeting with local law enforcement is scheduled.	
	Lethal Injection Team or Hanging Team, as necessary, is identified and notified.	
	Individuals eligible to witness execution are identified. Appropriate letters sent.	
Compliance Date: Not less than 20 days prior to the execution		
	Superintendent completes changes to IAP and returns to the Execution Incident Commander.	
	Staff assigned an organizational role within the ICS structure are identified and briefed.	
	ICS organization completes identified planning elements, required forms, and documentation for the IAP.	
	Letters received from potential witnesses have been processed.	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	<p>The chamber has been inspected to ensure the following systems are functional:</p> <p><input type="checkbox"/> Plumbing</p> <p><input type="checkbox"/> Lighting</p> <p><input type="checkbox"/> Emergency Lighting</p> <p><input type="checkbox"/> Mechanical Systems</p> <p><input type="checkbox"/> Locking Systems</p> <p><input type="checkbox"/> Telephones</p> <p><input type="checkbox"/> Sanitation</p> <p><input type="checkbox"/> Furnishings</p> <p><input type="checkbox"/> Toilet Facilities</p>	
	Execution Incident Commander ensures all staff assigned to positions within the chamber receive a briefing and notification of the date and time of "on-site" rehearsal.	
	Execution Incident Commander ensures a written report detailing the condition of the chamber has been submitted to the Superintendent citing any deficiencies. A schedule of corrective actions will be provided.	
Compliance Date: 15 days prior to the execution		
	All changes, improvements, or renovations to the chamber have been completed.	
	Total number of individuals to attend/witness the execution, other than staff, has been identified.	
	Witness applicants have been notified of the final witness list.	
Compliance Date: 14 days prior to execution		
	ISDP is authorized one additional hour of yard time each day.	
	ISDP is provided final opportunity to choose alternate method of execution.	
	All equipment has been procured for either mode of execution.	
	Notification to staff/ISDP for program changes if needed (e.g., visiting, etc.).	
	Arrangements made to ensure Death Certificate will be available. Superintendent is advised.	
Compliance Date: Not less than 10 days prior to the execution		

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	List of authorized witnesses is filed with Superior Court in county of conviction from which Death Warrant issued.	
	Physical examination is conducted, if needed.	
	The following have been checked: <input type="checkbox"/> All equipment required for lethal injection <input type="checkbox"/> All equipment required for hanging, if necessary.	
	Conduct at least 3 lethal injection practice sessions, if necessary, including siting of IV lines.	
	Gallows area trap door(s) and release mechanisms are inspected for proper operation, if necessary.	
	Proper amount of drop of ISDP through the trap door is determined, if necessary.	
	IAP specifically details crowd control strategies and tactics and identifies the operational supervisor/leader.	
Compliance Date: 7 days prior to the execution		
	Execution Incident Commander submits final IAP to the Superintendent and receives signature approval.	
	ISDP is authorized daily visits (in addition to with attorney of record).	
	Instructions are provided to staff on entrance and egress routes.	
	Mobile restroom facilities are placed in the designated demonstration area.	
	Post-execution handling of ISDP is coordinated.	
	Lethal solutions, if required, have been obtained and placed in security lock box.	
	The specific route and mode of body removal is determined and information transmitted to: <input type="checkbox"/> Superintendent <input type="checkbox"/> Execution Incident Commander <input type="checkbox"/> Captain <input type="checkbox"/> Shift Commander <input type="checkbox"/> Washington State Patrol	
	Menu for final meal is prepared and presented to Superintendent for approval.	
Compliance Date: Approximately 5 days prior to the execution		

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	On-site rehearsal has been conducted with all Execution Event staff participating.	
	The holding cell area has been inspected and is ready for occupancy.	
	Security inspections of the entire chamber have been conducted.	
	The holding cell is prepared and equipped with: <input type="checkbox"/> 1 Mattress <input type="checkbox"/> 2 Sheets <input type="checkbox"/> 3 Blankets <input type="checkbox"/> 1 Pillow <input type="checkbox"/> 1 Pillowcase <input type="checkbox"/> 2 Towels <input type="checkbox"/> 1 Washcloth <input type="checkbox"/> 1 Bar of Soap	
	Chamber and all systems have been checked for operation and readiness. All equipment present and functional.	
	Notices are issued to any contract/volunteer staff and/or construction workers of planned suspension of their activities.	
	Arrangements for Death Certificate are confirmed and communicated to the Superintendent/Execution Incident Commander.	
Compliance Date: Approximately 4 days prior to the execution		
	Coordination briefings with local law enforcement agencies have been conducted.	
	All staff assignments made: <input type="checkbox"/> Chamber Security Team <input type="checkbox"/> Correctional Program Managers <input type="checkbox"/> Captain <input type="checkbox"/> Chamber Media Escort Team <input type="checkbox"/> Visiting Room Media Monitor <input type="checkbox"/> Chaplain <input type="checkbox"/> Transport/Restraining Team <input type="checkbox"/> Holding Cell Security Team <input type="checkbox"/> Health Care Manager 2 <input type="checkbox"/> Incident Command Post Staff (Security/Communication) <input type="checkbox"/> Specialty Team Group Supervisor/ERT Leader <input type="checkbox"/> Specialty Team Group Supervisor/SERT Leader	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	Staff escorts assigned for all non-WSP individuals attending.	
Compliance Date: 24 hours prior to execution		
	Superintendent approves all visitors.	
	ISDP is requested to designate disposition of his/her property/remains in writing.	
	A thorough security inspection of the entire chamber area, including search of cells, has been conducted.	
	Clocks are coordinated.	
	ISDP is moved from IMU to holding cell. Visitors limited to approved clergy and attorney of record.	
	Upon arrival at the holding cell, ISDP is informed of conditions of confinement.	
	The IAP is initiated and Incident Command Post opened and staffed.	
	Main facility is briefed at roll call of extraordinary security measures.	
	A designated staff to operate PBX reports for work.	
Execution Day		
	Chamber Access Security Team (Shift A) reports to duty station in chamber.	
	Cell Security Team (Shift A) reports to duty station in chamber.	
	Lethal solutions, if needed, are transferred to the injection room in the chamber.	
	Final meal is prepared and served to ISDP.	
	Chamber Access Security Team Shift B relieves Shift A.	
	Cell Security Team Shift B relieves Shift A.	
	Authorized media representatives are allowed access to the facility and are briefed by the Superintendent/designee.	
	All witnesses have been assigned escorts and allowed access to the facility.	
	All traffic through information desk area, visitor tunnel is cleared.	
	All staff designated as participants are at duty stations in the chamber.	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	Department Secretary has been contacted by telephone from the Incident Command Post/Communications Center and an open line from the Department Emergency Operations Center to the chamber is established.	
	Incident Command Post/Communications Center contacts the Attorney General's Office by telephone and maintains an open line.	
	Lethal Injection Team enters and the equipment for injection mode and back-up equipment is tested, if necessary.	
	Hanging Team enters the gallows area and the equipment and back-up equipment is tested, if necessary.	
	Open line participants verify and concur no stay has been received. The time is _____ or later and the execution is to proceed.	
	Superintendent is in place in chamber.	
	ISDP is placed in restraints and escorted to the appropriate execution area.	
	All pre-execution preparations are completed. All participants are in place.	
	Assistant Secretary confirms that no stays have been granted.	
	Assistant Secretary informs Superintendent that there are no stays.	
	Superintendent signals the execution to proceed.	